



June 2, 2021

The Honorable Chair and Members
of the Hawai'i Public Utilities Commission
Kekuanao'a Building, First Floor
465 South King Street
Honolulu, Hawai'i 96813

Dear Commissioners:

Subject: Docket No. 2015-0389 – Community-Based Renewable Energy Program
Comments Regarding Order No. 37796 Approving the Revised Lāna'i RFP

The Hawaiian Electric Companies¹ submit this letter regarding the Commission's Order No. 37796 issued on May 21, 2021, in the subject docket. The Lāna'i RFP is unique in that it combines both a utility scale project and a Community-Based Renewable Energy ("CBRE") Program, also known as Shared Solar, project into one RFP. The Companies appreciate the Commission's guidance to move forward with the Lāna'i RFP quickly and are supportive of such efforts, which will benefit all customers on Lāna'i. However, the Companies believe that to facilitate a robust proposer participation in the RFP, certain aspects of the Maui Electric Tariff Rule 29 ("Rule 29") need to be established prior to opening the Lāna'i RFP to bidders.

Rule 29 is part of the Lāna'i RFP and is necessary to inform bidders of the rules and requirements associated with CBRE. The Lāna'i RFP states that "[t]he Proposer's CBRE Project must meet the CBRE Program and eligibility requirements identified in Part II of Rule 29 Community-Based Renewable Energy Program Phase 2 attached as Appendix J."² Without finalizing Rule 29, proposers will not have all the necessary information required to formulate a proposal and set associated pricing. If the Companies run the Lāna'i RFP prior to the issuing of a final Rule 29, developers may not have enough information to submit viable bids, which could result in requests for opportunities after the fact to revise proposals or withdraw from the RFP once Rule 29 is finalized and approved. This would add to the time needed to run the RFP and run counter to the purpose of an early start to the Lāna'i RFP. Worse, this uncertainty may lead developers to choose not to participate in the RFP at all.

Although including the final Rule 29 in the Lāna'i RFP would be ideal to reduce program variables and project risks for the developer, the most significant aspects of Rule 29 are those

¹ The "Hawaiian Electric Companies" or the "Companies" are Hawaiian Electric Company, Inc., Hawai'i Electric Light Company, Inc., and Maui Electric Company, Limited.

² See Community Based Renewable Energy Phase 2 Tariff and Appendices, and RFPs and Model Contracts for LMI Subscribers, Tranche 1, Moloka'i and Lāna'i, filed on March 30, 2021 in this docket.

related to the CBRE Project subscription requirements and associated liquidated damages. The requirements that are critical to finalize include:

1. The minimum percentage of CBRE subscriptions that must be reserved for residential Subscribers.
2. The definition of LMI Customer. Preference will be given to proposed Projects that reserve a percentage of CBRE subscriptions for LMI Customers. As such, who qualifies as a LMI Customer will play a large part in determining the universe of potential LMI Customers a proposer may be able to market to and sign up for CBRE subscriptions.
3. Amount of liquidated damages assessed if a Proposer fails to meet the amount of residential Subscribers or LMI Customers that a Proposer commits to in its Proposal.

Specific requirements are included in the following sections of Rule 29:

- Part II C.11 and 12 – Residential Customer Requirement
 - After a 6 month grace period, 40% of the Facility's CBRE capacity shall be reserved for individual subscriptions for residential Customers.
 - Payment reductions from Subscriber Organization's allocation for Unsubscribed RDG under Part II, Sections C.10 (Minimum of 4 individual Subscribers) and C.11 (Residential Customer Requirement) shall be cumulative in effect.
- Part III B – LMI Definitions
 - LMI Customer can qualify as an LMI Subscriber based on income, participation in a named organization that serves LMI, or by residing in any zip code identified by Hawaii Energy as qualifying for LMI.
- Part III E.3, 4, 5 and 6 – Payment Reductions and Liquidated Damages for Committed LMI Percentage
 - For a period of 6 months following initial commercial operations, the Subscriber Organization shall incur no payment reduction if it should fall below its Committed LMI Percentage.
 - The damages increase for months 7-12 after commercial operations are achieved.
 - Damages go into full effect after month 12.

To reiterate, finalizing Rule 29 prior to opening the Lāna'i RFP is likely to result in better competition from proposers and possibly more favorable pricing by reducing variability and risk to

The Honorable Chair and Members
of the Hawai'i Public Utilities Commission
June 2, 2021
Page 3

developers. Finalizing, at a minimum, the above stated Rule 29 requirements would be advantageous to all parties, including the proposers, the Companies, and customers. The Companies hereby respectfully request that at a minimum, certain pertinent parts of Rule 29 as specified above be finalized prior to issuance of the Lāna'i RFP.

Sincerely,

/s/ Rebecca Dayhuff Matsushima

Rebecca Dayhuff Matsushima
Director, Renewable Acquisition

c: Service List

SERVICE LIST
(Docket No. 2015-0389)

DEAN NISHINA EXECUTIVE DIRECTOR DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS DIVISION OF CONSUMER ADVOCACY P.O. Box 541 Honolulu, HI 96809 Dean.k.nishina@dcca.hawaii.gov	1 Copy Via email
KENT D. MORIHARA, ESQ. LIANNA L. FIGUEROA, ESQ. JAMIE C. YOSHIKANE, ESQ. Schneider Tanaka Radovich Andrew & Tanaka LLC 1100 Alakea Street, Suite 2100 Honolulu, HI 96813 Counsel for Kauai Island Utility Cooperative kent.morihara@stratlaw.com lianna.figueroa@stratlaw.com Jamie.yoshikane@stratlaw.com	1 Copy Via email
GREGG J. KINKLEY, ESQ. DEBORAH DAY EMERSON DEPARTMENT OF THE ATTORNEY GENERAL 425 Queen Street Honolulu, Hawaii 96813 Counsel for DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT, AND TOURISM Gregg.j.kinkley@hawaii.gov	1 Copy Via email
SANDRA-ANN YH. WONG, ESQ. ATTORNEY AT LAW, A LAW CORPORATION 1050 Bishop Street, #514 Honolulu, HI 96813 Counsel for SUNPOWER CORPORATION sawonglaw@hawaii.rr.com	1 Copy Via email
COLIN A. YOST, ESQ. 210 WARD AVENUE, Suite 140 Honolulu, Hawaii 96813 Counsel for HAWAI'I PV COALITION colin@revolusun.com	1 Copy Via email

SERVICE LIST
(Docket No. 2015-0389)

RICHARD R. REED PRESIDENT HAWAII SOLAR ENERGY ASSOCIATION C/O INTER-ISLAND SOLAR SUPPLY 761 AHUA STREET Honolulu, Hawaii 96819 rreed@solarsupply.com	1 Copy Via email
GERALD A. SUMIDA ARSIMA A. MULLER CARLSMITH BALL LLP ASB Tower, Suite 2100 Honolulu, Hawaii 96813 Counsel for ULUPONO INITIATIVE, LLC gsumida@carlsmith.com amuller@carlsmith.com	1 Copy Via email
MELISSA MIYASHIRO CHIEF OF STAFF BLUE PLANET FOUNDATION 55 Merchant Street, 17th Floor Honolulu, Hawaii 96813 melissa@blueplanetfoundation.org	1 Copy Via email
TIM LINDL KEYES & FOX & WIEDMAN LLP 436 14th Street, Suite 1305 Oakland, CA 94612 Counsel for THE ALLIANCE FOR SOLAR CHOICE tlindl@kfwlaw.com	1 Copy Via email
ROBERT HARRIS 437 Keolu Drive Kailua, HI 96734 Counsel for THE ALLIANCE FOR SOLAR CHOICE robert.harris@sunrun.com	1 Copy Via email

SERVICE LIST
(Docket No. 2015-0389)

<p>ISAAC K. MORIWAKE KYLIE W. WAGER EARTHJUSTICE 850 Richards Street, Suite 400 Honolulu, Hawaii 96813 Counsel for HAWAII SOLAR ENERGY ASSOCIATION imoriwake@earthjustice.org kwager@earthjustice.org</p>	<p>1 Copy Via email</p>
--	-----------------------------

FILED

2021 Jun 02 PM 15:12

PUBLIC UTILITIES
COMMISSION

The foregoing document was electronically filed with the State of Hawaii Public Utilities Commission's Document Management System (DMS).